

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 11,261
)	
Appeal of)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her A.N.F.C. benefits. The issue is whether the Department may consider the income of the father of one of her children in computing the petitioner's eligibility for A.N.F.C.

FINDINGS OF FACT

This is another so-called DEFRA case, in which the Department, pursuant to federal statute, mandates the inclusion in an A.N.F.C. "assistance group" of the siblings and parents of all eligible children. In the petitioner's case, she resides with a child from a previous marriage and two children she has in common with another adult residing in her home. Prior to April, 1992, the father of the children in common was employed. During this time the petitioner received A.N.F.C. for herself and her one child based on the "absence" of that child's father. In April, 1992, the father of the children in common became unemployed. When it learned of this, the Department notified the petitioner that the father would have to apply for A.N.F.C. as an "unemployed parent" and would have to register for the "Reach Up" program. When

neither the petitioner nor the father responded to this notice within the time allowed, the Department notified the petitioner that it was terminating her A.N.F.C. grant.

The petitioner, who appeared pro se, took no issue with the facts and figures relied upon by the Department in its determination.¹ Although she strongly disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

Over the past several years the Board has considered dozens of appeals concerning the provisions in the regulations, adopted pursuant to the 1984 DEFRA amendments to the federal A.N.F.C. statutes, mandating the inclusion in an A.N.F.C. household of all siblings, and parents of those siblings, who reside with A.N.F.C.-eligible children, and "deeming" the income of those siblings as "available" to the entire A.N.F.C. household. See Fair Hearing Nos. 6648 et. al. and W.A.M. 9 2242. This case again illustrates the incongruity in the manner in which Congress implemented these so-called deeming provisions.²

Nonetheless, it is clear in this matter that the Department has correctly followed what the United States

Supreme Court has upheld as a valid procedure for determining the A.N.F.C. eligibility of individuals in the petitioner's circumstances.³ Therefore, the Board has no choice but to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTES

¹At the hearing (held on June 5, 1992) the petitioner conceded that the father did not wish to file for A.N.F.C. as an "unemployed parent" or cooperate with the requirements of that program.

²By statute, mandatory household inclusion and income-deeming of half-siblings occurs only when the parent of that sibling is absent, unemployed, or incapacitated--but not when the parent is living in the household and is working. See 42 V.S.C. § 602(a)(38).

³See Bowen v. Guillard, 55 U.S.L.W. 5079 (1987).

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